

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Dinah W. Y. Sah	Art Unit :	1649
Serial No. :	10/669,853	Examiner :	Chang Yu Wang
Filed :	September 24, 2003	Conf. No. :	4306
Title :	TREATMENT USING NEUBLASTIN POLYPEPTIDES		

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REPLY TO NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION

The Notice (a copy of which is enclosed) dated December 22, 2008, stated that the Request for Continued Examination (RCE) filed on October 20, 2008, was not accompanied by a submission as required by 37 CFR § 1.114. An RCE must include both a "submission" and payment of the required fee. 37 CFR § 1.114(a). A "submission" as used in 37 CFR § 1.114 includes an Information Disclosure Statement. 37 CFR § 1.114(c). The RCE filed on October 20, 2008 was accompanied by an Information Disclosure Statement, thereby satisfying the "submission" requirement of 37 CFR § 1.114. As a result, applicant requests that the Notice be withdrawn.

Please apply any charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 13751-034001.

Respectfully submitted,

Date: January 22, 2009

  
\_\_\_\_\_  
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**CERTIFICATE OF MAILING BY EFS-WEB FILING**

I hereby certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: January 22, 2009




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**Paper No.**

Application No.:	10/669,853 	Date Mailed:	12/22/2008
First Named Inventor:	Sah, Dinah, W. Y.	Examiner:	WANG, CHANG YU
Attorney Docket No.:	13751-034001 / A118 US	Art Unit:	1649
Confirmation No.:	4306	Filing Date:	09/24/2003

**Please find attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

**NOTICE OF IMPROPER REQUEST FOR  
CONTINUED EXAMINATION (RCE)**

**Application No.**  
10/669,853

**Applicant(s)**  
SAH, DINAH W. Y.

**Art Unit**  
1600

**Date Mailed:**

The request for continued examination (RCE) under 37 CFR 1.114 filed on 20 October, 2008 is improper for reason(s) indicated below:

1. ☐ Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
2. ☐ Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
3. ☐ Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
4. ☐ The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
5. ☐ The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
6. ☐ The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
7. ☒ The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

**Note:** A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date on or after June 8, 1995 will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

***A copy of this Notice MUST be returned with the reply.***

Direct any questions concerning this notice to

/DESHONNE T. MARTINO/, Technology Center 1600

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